

JEFFERSON COUNTY COMMISSIONERS  
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TOM LYTHGOE, CHAIR

DAVE KIRSCH

LEONARD WORTMAN

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**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
March 16, 2010**

**Present:** Commissioners Lythgoe, Kirsch and Wortman; Harold Stepper and Mike Hoffman, County Planners; Matt Johnson, County Attorney; Joe Carter, Road Supervisor; Jeremiah Theys, Great West Engineering; Dave Kaufman and Travis Meyer, Elkhorn Search and Rescue; Ike Jessee, Barbara Sunderland, Bruce Spencer, Roger and Mary Udovich, Ray and Debbie Thares Thares, Colleen Teeling, Jennifer Anders, Jason and Michelle Norman, Rich River, Neven Sather, Kelly Enright, James Hesterberg, Kent Cathey, Tom Filche, Larry Zanto

**REPORTS**

Commissioner Lythgoe noted receipt of the February cash report from the Treasurer.

**CALENDAR REVIEW**

- 3/16 DUI Task Force - 6:00
- Solid Waste Board - 6:00
- 3/17 Meeting regarding Jefferson River dike - Whitehall - 7:00
- 3/18 Meeting with Owen Voight - 10:00
- Headwaters - Butte - 1:00
- RMDC - Helena - 2:00
- 3/19 Meeting with Justice Court - 10:00

**COMMISSION REPORTS**

**TRI-CO FIRE**

Commissioner Lythgoe reported on the Tri-Co Fire held in Helena on Thursday. This is a group that is leading the nation in programs dealing with defensible space around homes in the wildland-urban interface. Grant funds are available for mitigation. They are working on getting beetle-kill trees down and out of the area.

### CANVASS OF ELECTION

Commissioner Lythgoe reported that on Friday the Commission met to canvass an election that was held in Whitehall.

### EXIT INTERVIEW WITH AUDITOR

Commissioner Lythgoe reported that at 9:30 on Friday the Commissioners took part in an exit interview with an auditor from Denning, Downey and Associates. Several small items were noted and responses have been submitted.

### MAREN OLSEN

Commissioner Lythgoe reported that the previous morning the Commission met with Maren Olsen, Denny Rehberg's representative. Larry Lattin, Boulder's Southwest Montana Veterans' Home Committee representative, was also in attendance and they discussed the project and the good possibility that the home could be located in Boulder. The siting committee is meeting this week to finalize the location of the home.

### BOYD ANDREW BOARD OF DIRECTORS

Commissioner Wortman reported that on the 10<sup>th</sup> he attended the Boyd Andrew board of directors meeting in Helena. They discussed some of the options that Boyd Andrew would have if the governor goes ahead with the cuts recommended the Department of Corrections to cut eight beds out of the women's meth treatment center. There has been no explanation as to why the DOC made all of the cuts from Elkhorn, rather than spreading them out through all of the facilities. Since the treatment center is a lock-down treatment facility, if cuts were needed they could not affect security, but would have to come from the treatment side which would dilute the program. The other option would be to close the facility and have the woman go back to the prison in Billings, but there is less treatment there.

### TIF ADVISORY BOARD

Commissioner Wortman reported that he attended the TIF district meeting on the 10<sup>th</sup>. The group is just getting started and elected a chair for the meeting. There is a lot of interest in the two districts, and Cretex has committed to locate in the north end district.

### CTAC

Commissioner Wortman reported on the CTAC meeting he attended in Whitehall on Thursday morning. They discussed the status of the Golden Sunlight Mine and where they are with the pit lay back.

### ELKHORN WORKING GROUP

Commissioner Kirsch reported that he attended the Elkhorn Working Group meeting on the 11<sup>th</sup>. They discussed wolves, which seem to be heading east. One of the biologists on the committee has been watching the wolves closely. They have received \$170,000 in grants to combat weeds in that area. They also discussed the wild mahogany that mule deer eat. The lime pit in Townsend is working to replace what has been lost through mining.

## WEED BOARD

Commissioner Kirsch reported that on the evening of the 11<sup>th</sup> he attended the weed board meeting in Boulder. They discussed budgets and the weed department has just purchased used truck to be used as a sprayer.

## BIG BOULDER HOUSING PROJECT

Commissioner Kirsch reported that the previous day he attended the Big Boulder housing bid letting. 45 contractors took part in the walk through, 21 picked up the bid packet, and 12 submitted bids.

Commissioner Lythgoe stated that got another piece of correspondence that they should share. The Commission got a letter of resignation from Ken Weber that morning resigning his position as Solid Waste Manager.

## SUBDIVISION REVIEW

### REQUEST FOR VARIANCE TO NORTH JEFFERSON COUNTY ZONING – RAY THARES

Harold Stepper, County Planner, prefaced his comments by stating that in his ten years with the county, this is probably the toughest decision he has made in regards to zoning.

Harold submitted his staff report. The original sign existed prior to the North Jefferson County Zoning Regulations that were adopted in 1997. Because of this, the original sign was grandfathered into the zoning. The original sign stands within the 500 foot jurisdictional area for sign regulation of the Montana Department of Transportation (MDOT). No permit exists from MDOT for the original sign.

The modification of the sign to a LED sign makes to subject to the North Jefferson County Zoning Regulations, specifically the sign zoning regulations. The LED sign is located 271 feet from the business. According to zoning regulations, an on-premise sign must be within 30 feet of the principal building. Because of this, the sign is considered an off-premise sign. Zoning regulations further state that signs shall not exceed 16 square feet in total background area. The sign in question is 8 feet by 34 feet, 272 square feet in background area. The sign also exceeds the maximum height allowed in the zoning regulations. Zoning regulations also state that no blinking, flashing or moving signs are allowed. Harold noted that an employee of a different sign company than the one that installed the sign questioned the sign's stability in high winds.

Harold stated that since the original sign was grandfathered into the zoning, the original size and height of the sign may be permitted, but cannot exceed the original measurements. The LED portion of the sign must be removed.

Ray Thares stated that the installer who installed the sign said that he would take care of any permits. He stated that he called the state and the state said that the sign was okay. Ray said that he understands that it was his responsibility to make sure that this was done. He would like to keep sign. Ray said that the sign could be used to display Amber alerts, community

announcements, public safety alerts, fire risk, etc. He said that they took all of this into consideration, what they could do with the sign. They talked to the Sheriff and the County Attorney and let them know that the sign would be available for emergency alerts. At the time they bought the sign, they didn't know that they could control the intensity of the sign and the time that the sign turns on and turns off. Ray stated that the sign has not yet been paid for, and the installer has said that if the sign isn't paid for soon, they will put a lien on the business.

Commissioner Lythgoe called for comments from the gallery.

Roger Udovich stated that he lives within a quarter mile of the sign, practically at eye level. He can see nothing that would cause anyone any concern with the sign. The sign does not bother him at night. The sign brings people in off of the road, which helps with the gas station and other restaurants as well. He feels that the sign is a benefit to the community.

Bruce Spencer said that he has some reluctance in being at the meeting today. He considers himself pro-business and thinks that Papa Ray's is a fine business and is well run. When he saw this mentioned in the paper it struck something in him. The first time that he saw the sign, he almost drove off of the road. He hates the sign. He feels that Harold did a good job in thinking through his report, and came up with a good compromise. Bruce noted that the Commission cannot take economic hardship into consideration when considering a variance. If he heard correctly and the sign isn't paid for, he would maintain that it doesn't need to be paid for; the sign company assured the owner that they would take care of the permitting, and they did not follow through.

Larry Zanto, stated that he doesn't see the huge negative impacts of the sign. He does see something positive. In the time that he has lived there, there have been two natural disasters, a flood and the Elkhorn fires. The flood prevented him from getting home for several days and the fires forced him to evacuate. If there was a public notice board, it would have been very helpful.

Jennifer Anders, stated that she is a former member of the Jefferson County Board of Adjustment. She stated that the request for a variance does not meet any of the requirements for a variance. The LED portion of the sign is nearly 20 times the allowable size. Jennifer noted that there is nothing like this sign anywhere in the area. If the Commission decides to grant this variance, what would stop other businesses from erecting similar signs. This isn't a popularity contest; the number of signatures for or against granting the variance doesn't matter. The sign is outside the law.

James Hesterberg stated that when the sign was first turned on, he went and talked to the management and that is when they learned that they could change the intensity of the sign and also put it on a timer. He said that the management has been considerate of this. He feels that the opportunity to provide community and safety announcements would provide a valuable service.

Commissioner Lythgoe noted that the Commission received a letter that was requested to be read

into the minutes. Commissioner Lythgoe read the letter from Reginald and Sandra Goodwin in opposition of the sign. Commissioner Lythgoe noted that the Commission has received petitions for and against the granting of the variance.

Commissioner Kirsch stated that he would like to hear from the County Attorney.

Matt Johnson, County Attorney, stated that Jennifer and Bruce were right on in their assessments. He loves going to Papa Ray's and Ray and Debbie are great people, but the sign is outside of the law. The state has washed its hands of the issue; on the other hand would a state permit trump county zoning. The zoning was put in place by the local residents and if they wish to change the guidelines for signs, they may do so. He would recommend that the Commission follow Harold's recommendation.

Commissioner Wortman moved to follow the recommendation of the county planner in allowing the grandfathered portion of the sign remain on site and take down the LED portion of the sign. Commissioner Lythgoe seconded. The motion carried.

## **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

### **REVIEW AND ADOPT 2010 UPDATE – BRIDGE EVALUATION AND CAPITAL IMPROVEMENT PLAN**

Jeremiah Theys, Great West Engineering, came before the Commission to present the 2010 update of the Bridge Evaluation and Capital Improvement Plan. This document was originally completed in 2006 and was updated in 2008 and again this year. Jeremiah reviewed the criteria for ranking the bridges. The Basin Creek Bridge is currently ranked as the highest priority, followed by Meridan Bridge, Cottonwood Creek and Dunn Lane. Jeremiah stated that they didn't look at the Meridan Bridge because it is a major bridge that spans two counties and is probably a \$4 million project. It is beyond the scope of the TSEP program.

Commissioner Wortman asked if the Meridian Bridge be split between Gallatin and Jefferson County. Jeremiah said that it is still only one bridge, so would only be eligible for one county to apply for funding.

### **RESOLUTION 06-2010 ADOPTION OF 2010 BRIDGE EVALUATION AND CAPITAL IMPROVEMENT PLAN**

Commissioner Kirsch moved to approve the bridge evaluation and adopt the resolution. Commissioner Wortman seconded. The motion carried.

### **JEFFERSON COUNTY PRELIMINARY ENGINEERING REPORTS – TSEP BRIDGES AND DISCUSSION OF 2010 TSEP BRIDGE APPLICATION**

Jeremiah presented the Commission with a draft engineering report as well as a summary of the report.

Dunn Lane Bridge was construction around 1950. The overall structure rating is a 3 out of 10. The concrete was poorly consolidated and constructed and it is undersized as well. The

replacement alternatives are a pre-stress concrete or steel modular supported on a driven pile foundation. They are estimating this bridge replacement will cost \$383,130.

Basin Creek Road Bridge is a single span, single lane bridge. MDT indicates that the bridge was constructed in 1983, but if it was, some of the materials have deteriorated rapidly; it is possible that the bridge was refurbished with existing materials. Structure rating is a 3 and the bridge has a load limit of 6 tons. This bridge offers the sole access into the area and mine reclamation and logging will be taking place. They are recommending a concrete ply-deck and driven pile foundation at a cost of \$348,368.

Jeremiah said that the Cottonwood Canyon Bridge in the Whitehall area is a timber structure that is 13 feet wide, with no guard rail, which was built in 1970. It has a low sufficiency rating, but low traffic, so it was not ranked as high. The structure rating is a 2. As this bridge has a shorter span, they were able to look at culvert options. However, they have a significant amount of flow that comes through there and previously placed pipes have been blow out. It was decided that the reinforced steel box culvert would be the best option and would cost \$110,025. However, if the county can do the work on this project it would offer a substantial savings and bring the cost down to \$73,900.

Jeremiah said that the Commission directed Great West to submit a RAC grant application, Southwest Montana Resource Advisory Committee, for funding assistance for replacement of the Basin Creek Bridge. They prepared and submitted a grant application in the amount of \$160,000. The hope is to match that against TSEP, so that the county would not have to pay in anything for that bridge. The RAC is not active at this time, however.

If they are to move forward to total would be \$820,398 – \$410,199 from TSEP and in-kind labor and services in the amount of \$383,508, if they decide to move forward with all three projects.

Commissioner Lythgoe stated that this is a lot of money for the county to come up with. Commissioner Wortman stated that with the amount of money that would be involved, the Dunn Lane and Cottonwood Canyon bridges would not be as much of a priority with him as Basin Creek.

Commissioner Lythgoe asked Joe, after the bridges are inspected and graded as to weight limits, do they automatically put up signs with weight limits. Joe said that they haven't put up any signs yet. Commissioner Lythgoe said that he thinks that it is important to get the weight limits posted.

Jason Norman, stated that he lives in Basin and is concerned with what is proposed for the Basin Creek Bridge. Living right by the bridge, he watches people going up and down all of the time, and many of them are probably overweight, which wouldn't help the structure of the bridge at all. They are also concerned with the speed that people travel over the bridge, which is very close to the school zone. They also don't see the need for a two-lane bridge; the single lane is the only thing that slows some people down.

Jeremiah said that regarding the alignment, because it is a single access, they would have to put in a temporary bypass. They discussed putting the permanent bridge upstream and using the existing bridge as the bypass. He talked to the landowner upstream and they are not willing to have the bridge moved upstream. Commissioner Lythgoe asked about the possibility of further expansion up the road in the future. If there is going to be any growth at all, and therefore more traffic, a two-lane bridge would be a must.

Commissioner Kirsch stated that when he goes up Basin Creek, he doesn't have any trouble in passing on-coming traffic. Also, as Jason has said, there are a lot of high tonnage vehicles using the bridge. This bridge needs to be replaced. Jason said that he would like something built into the plan that will help control the speed.

Joe stated that he was requested to put up speed limits signs and this has been done. He has seen first-hand however that the limits are ignored. If they could get more law enforcement patrolling, it would be helpful.

Michelle Norman asked if the plan is to move the bridge away from their property. They stated that they have three little girls and their fence has been hit twice by people driving too fast. Jeremiah stated that the bridge will be located within the county easement, but when they are doing the final design they will survey everything and try to locate the bridge in the best possible location.

#### ELKHORN SEARCH & RESCUE – REQUEST FOR TITLE III FUNDS

Dave Kaufman, Elkhorn Search and Rescue, presented two proposals for the purchase of a mobile command vehicle. They have been trying to save funds for the purchase, but with their limited funds they have not made much headway. Dave stated that they do have a mobile trailer, but it is 30 feet long and very heavy and they are unable to use it in remote locations. This command center would help in that it would not need to be hauled by a private vehicle. He was responsible for hauling the command center for many years, and it was almost too much for his  $\frac{3}{4}$  ton truck. They are looking to get a vehicle that would be strong enough to pull the trailer and also have a small command center in the back.

They have been seeking grants, and they were successful in getting a \$10,000 grant from Qwest. However, this grant has to be expended by September 1. They have also saved \$8,000 through fundraising. They are requesting \$25,286 for proposal 1, or \$19,000 for proposal 2.

Commissioner Lythgoe stated that with proposal 1 being preferred, asked Dave to justify proposal 1 over proposal 2. Dave stated that you need a little weight capacity when you go with a 12-foot box command trailer. Proposal 2, you could go with a one-ton vehicle and a 9-foot box.

Commissioner Lythgoe stated that it would be a stand-alone command center and could also haul the large trailer. Dave said that this is correct.

Commissioner Wortman asked if the \$7,000 for equipment in addition to the \$25,000 or \$19,000. Dave said that it is. He tried to ask for the minimum first, and if money isn't available for the

extras, they can try a raffle again. Dave explained that the command center would be built to order, and they can make it so that it has expansion capabilities.

Commissioner Lythgoe asked if they have talked to Sheriff Doolittle. Dave said that Craig is aware of this.

Commissioner Wortman asked where the money would come from to fund this project. Commissioner Lythgoe said that it would come from Title III monies. He stated that we have to advertise before they expend any Title III money. In his opinion, if they are looking to the future, it makes sense to him that they would go with proposal 1.

Commissioner Lythgoe asked for an exact dollar amount for everything, minus the grant funds that they have available. Dave said that it would be \$32,286.

Commissioner Lythgoe moved to put an ad in the county paper indicating that we will allocate \$32,286 of Title III funds to Elkhorn Search & Rescue. Commissioner Wortman seconded. The motion carried.

Commissioner Wortman moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

## **MEETING ADJOURNED**

### **ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**DAVE KIRSCH, COMMISSIONER**

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**LEONARD WORTMAN, COMMISSIONER**



